



## Haiti

### Country Reports on Human Rights Practices - [2001](#)

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Haiti is a republic with an elected president and a bicameral legislature. The 1987 Constitution remains in force, but many of its provisions are not respected in practice. The political impasse and political violence stemming from controversial results of May 2000 legislative and local elections continued during the year. In May 2000, the Provisional Electoral Council (CEP) manipulated the results of the election to ensure that Fanmi Lavalas (FL) maintained control of the Senate. The opposition parties boycotted July 2000 runoff elections and the November 2000 presidential elections, in which Jean-Bertrand Aristide was elected with extremely low voter turnout. President Aristide was sworn in on February 7. During the first half of the year, the international community, including the Organization of American States (OAS), and the country's civil society mediated discussions between the FL and the opposition Democratic Convergence; however, negotiations were not successful and talks were suspended in July following armed attacks on several police stations by unidentified gunmen. On December 17, an unknown number of unidentified gunmen attacked the National Palace in Port-au-Prince; 8 persons reportedly died and 15 persons were injured. Following the attack, progovernment groups attacked opposition members' offices and homes; one opposition member was killed. The 1987 Constitution provides for an independent judiciary; however, it is not independent in practice and remained largely weak and corrupt, as well as subject to interference by the executive and legislative branches.

The Government established the Haitian National Police (HNP) in 1995 as the sole security force in the country after disbanding the military (the FAd'H). Despite substantive international assistance and some initial progress, the HNP remains a fledgling institution with inadequate resources. Since President Aristide assumed power in February, he has filled many key positions with loyalists who often lack experience, training, and credibility. The HNP has between 2,500 and 3,500 officers. Although new cadets are being trained, they are chosen based on political and personal favoritism. Allegations of corruption, incompetence, and narcotics trafficking affect all levels of the HNP. Nevertheless, a cadre of officers trained by U.S., French, and Canadian authorities remains and are committed to protect and serve the country. The HNP has a variety of specialized units, including a crisis response unit (SWAT); a crowd control unit (CIMO) serving Port-au-Prince and the Western department; crowd control units (UDMO's) serving each of the remaining eight departments; a presidential and security unit; a small Coast Guard unit; and a Special Investigative Unit (SIU), formed to investigate high-profile political killings. The SIU is no longer well equipped and inexperienced; however, it lacks a mandate from the country's political leaders and is largely defunct. Some members of local government councils (CASEC's) exercised arrest authority without legal sanction. Some members of the HNP committed human rights abuses.

The country has an estimated population of 8 million and is extremely poor, with a per capita income of approximately \$500. Estimates of gross domestic product (GDP) per capita are unreliable because they do not include fully significant remittances from the more than 1 million Haitians living abroad, or income from informal sector activities that constitute an estimated 70 percent of actual economic activity. The country has a market-based economy with state enterprises controlling utilities. Aside from the sale of two previously closed parastatals, the privatization of state-owned enterprises has ceased. A small elite controls much of the country's wealth. Approximately two-thirds of the population work in subsistence agriculture, earn less than the average income, and live in extreme poverty. A small part of the urban labor force (approximately 30,000 persons) works in the industrial and assembly sectors, with an equal number in government or service sector employment. Assembled goods, textiles, leather goods, handicrafts, and electronics are sources of limited export revenue and employment. Other important exports are mangoes and coffee. The country is heavily dependent on international assistance and remittances and imports 60 percent of its food. The economic situation worsened significantly during the year. Political instability, deficit financing, depreciation of the local currency (the gourde), and the world fuel price increase contributed to the country's severe economic problems. Episodes of sharp gourde depreciation in September and October, combined with the fuel price increase, resulted in high costs for import-dependent business enterprises, and prices for food and consumer

goods remained high. The International Monetary Fund estimated inflation at 18 percent and a growth rate of just over 1 percent.

The Government continued to commit serious abuses during the year, and its generally poor human rights record worsened. There were credible reports of extrajudicial killings by members of the HNP. Unresolved attacks on July 28 against police stations in Port-au-Prince and the Central Plateau province led to a government crackdown against members of the former military and the political opposition. Police and local officials illegally arrested at least 50 persons; police beat some of those arrested. One opposition party's office was raided, and police arrested its members. Spouses of wanted persons also were arrested. Most of those arrested arbitrarily in August and September were released by year's end. The Government made no progress in solving prominent killings that took place after the FL regained power in 1994. The 2000 killing of journalist Jean Dominique remained unsolved, although a judicial investigation continues. FL Senator and president of the Senate Commission on Public Security Dany Toussaint is a suspect in the Dominique murder. Police officers used excessive--and sometimes deadly--force in making arrests or controlling demonstrations and rarely were punished for such acts. Prison conditions remained very poor, although there were some improvements. Prisoners with valid release orders continued to be held in defiance of these orders. Former military president Prosper Avril remains in prison despite a June 12 release order. Criminal deportees who already served full sentences in other countries continue to be held for varying amounts of preventive detention. In June President Aristide, reacting to a sharp increase in crime and insecurity, announced a policy of "zero tolerance," urging police and citizens to bypass the judicial system if they caught alleged perpetrators in the commission of a crime. Mobs were subsequently responsible for at least nine killings.

FL local officials committed increasing numbers of serious human rights abuses. The mayors of Maissade and Hinche frequently beat and arbitrarily arrested human rights activists, former military, labor activists, and opposition members. In December President Aristide removed the Hinche mayor from office. Most media practice some form of self-censorship, although they are frequently critical of the Government. In December several radio stations closed down temporarily due to intimidation and threats. More than 20 journalists fled the country and others reported that they received threats. Political violence continued. Violence and societal discrimination against women, and abuse of children remain problems. The Parliament passed a law outlawing corporal punishment against children. Child labor and internal trafficking of children were problems.

The Penitentiary Administration Management (DAP), through international donor assistance, made important strides in decreasing cases of malnutrition among prisoners and in improving conditions for its prisoners. Justice Minister Gary Lissade opened a bureau for citizens to lodge complaints against judges. He also began to address seriously the problem of inadequate judicial attention to pretrial detainees, some of whom are imprisoned for years before their cases come to trial. The Justice Minister's efforts have resulted in the release of more than 100 prisoners from pretrial detention.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary and Other Unlawful Deprivation of Life

There were credible reports of extrajudicial killings by members of the HNP. Human rights groups also charged the HNP with numerous extrajudicial killings following a June announcement by President Aristide that suspected criminals would be met with "zero tolerance."

On October 11, police assigned to the Port-au-Prince slum of Cite Soleil killed two persons, including 16-year-old Mackenson Fleurimond. The police also beat a radio journalist who was investigating Fleurimond's death (see Section 2.a.). The police action precipitated several days of riots and clashes with police. No arrests or investigations were made in this case.

On July 28, approximately six unknown gunmen dressed in FAd'H uniforms entered the National Police Academy in Pétionville. They killed three policemen, including Police Academy Administrator Jean Eddy Cantave and held several police officers hostage for 5 hours. Hours later, either the same or other gunmen attempted to take over police stations in the Central Plateau towns of Mirebalais, Hinche, and Belladere; another policeman was killed. In Belladere gunmen took control of the police station and broadcast a call for former military to take up arms against the Government. Several former members of the military gathered at the police station; the gunmen subsequently disappeared.

Following the attacks, SWAT and local police detained and interrogated more than 30 local residents (see Section 1.d.).

During one such detention on July 28, police killed Wilner Jean-Louis, a former member of the military and member of the Democratic Convergence (see Section 1.c.). The police claimed that they killed him in self-defense. Following Jean-Louis's death, police and local officials called a justice of the peace to the scene but then prohibited him from interviewing certain witnesses. Police detained some witnesses. There was no government inquiry or investigation into the killing. On July 28, local residents found the body of an unidentified man, wearing a FAd'H uniform, floating in the Inquite River near Belladere. There were no government inquiries or investigations into the death.

There were politically motivated killings during the year (see Section 3). In March one demonstrator was killed in a clash between the FL and the opposition (see Section 3). The opposition Konvansyon Inite Demokratik (KID) party stated that police killed several of its members during the months of June and July. There was no independent confirmation of these claims.

On November 29, political demonstrations in the city of St. Marc left one person killed and several wounded. The violence started when pro-FL supporters attacked an opposition demonstration. There were no arrests or investigations.

On December 3, members of a progovernment popular organization killed and mutilated the body of Brignol Lindor, a journalist in Petit-Goave (See Section 2.a.).

On December 17, gunmen attacked the National Palace in Port-au-Prince in an early morning raid. A government-issued report claimed that the gunmen were members of the FAd'H and that they killed 8 persons and injured 15 others. After the attack on the Palace, progovernment groups attacked and burned the offices and homes of four opposition political parties, all of whom are members of the Democratic Convergence coalition (see Section 3). Progovernment groups also attacked opposition members in the provinces. One member of the MOCHRENA political party was killed in Gonaives. Several radio stations closed down during the day because of intimidation and threats. More than 20 journalists fled the country and others reported that they received threats (see Section 2.a.).

In November prisoners at the National Penitentiary rioted after prison guards killed a prisoner. Inmates claimed that several prisoners were killed during the riot, but these reports were not confirmed (see Section 1.c.).

Judges assigned to politically sensitive cases complained about interference by the executive branch of the Government (see Section 1.e.).

On March 26, a civil court ruled that approximately \$35 million (875 million gourdes) should be paid to the families of the 11 civilians killed by police officers in 1999 in the Port-au-Prince suburb of Carrefour-Feuilles. Half is to be paid by the Government and another half by the four policemen found guilty in a criminal trial in September 2000.

There was little action on the investigation into the 1993 massacre of residents of Cite Soleil, a Port-au-Prince slum, by members of the FAd'H and their allied paramilitary group, the Revolutionary Front for the Advancement and Progress of Haiti (FRAPH). In 1999 justice officials had issued 23 arrest warrants. In the summer of 2000, the Ministry of Justice had appointed a new investigating judge, and the investigation was ongoing at year's end.

The April 2000 killing of popular Radio Haiti-Inter host and journalist Jean Leopold Dominique, known for his criticism of the Government and of former coup leaders, remained unsolved. A security guard also was killed in the incident. On June 8, Investigating Judge Claudy Gassant submitted his report to the Port-au-Prince public prosecutor. After 2 weeks of studying the report, the prosecutor returned it to the office of the Investigating Judge with additional questions. At that time, Gassant was out of the country and announced that he would not return due to unspecified threats against his life. National and international human rights organizations urged the Government to take all necessary steps to protect Gassant. The Government repeatedly announced its willingness to provide all appropriate protection, and Gassant returned in late June. He continued the investigation and in September asked the Senate to lift the immunity of Senator Dany Toussaint, whom he described as a suspect. The Senate had not responded by year's end. Several journalists reported threats that appeared to be due to their association with Dominique (see Section 2.a.).

On August 27, the National Coalition for Haitian Rights (NCHR) wrote an open letter to Justice Minister Lissade. The letter noted the lack of progress in investigating several high-profile killings: Father Jean Marie Vincent (killed August 28, 1994), Chenel Gracien (killed May 5, 1998), Jean Pierre Louis (killed August 3, 1998), Senator Yvon Toussaint (killed March 1, 1999), Jean Lamy (killed October 8, 1999), Jean Dominique (killed April 3, 2000), and Amos Jeannot (killed September 6, 2000).

Vigilante killings are common. Historically, extrajudicial killings often take the form of vigilante actions. In previous years, such incidents occurred without official complicity, especially in rural areas where there is little or no police presence. The populace routinely resorts to vigilante actions in the absence of reliable means of legal redress. On February 8, in the northern town of Pilate, police were holding eight suspected criminals at the local police station when an enraged crowd stormed the police station and stoned the prisoners to death. The crowd later burned four bodies. Local police tried to save the suspects but were overrun by the crowd. In April a gang killed 10 motorists traveling on a Port-au-Prince road. In response, mobs from the adjacent slum of Cite Soleil began searching for gang members. At least 18 persons were killed by the ensuing mob violence. In mid-April a mob attacked two radio transmitters and killed a guard (see Section 2.a.). Accusations of sorcery, particularly in rural areas, have resulted in mob violence and killings (see Section 2.c.).

On June 20, in response to a significant increase in violet crime, President Aristide called publicly for "zero tolerance" of criminals. In his address, he called on police and citizens to bypass the judicial system if they caught persons in the act of committing a crime. Human rights organizations such as the National Coalition for Haitian Rights (NCHR) and the Platform of Haitian Human Rights Organizations criticized this address as opening the door to summary executions of suspected criminals and others by the population and by the police. Opposition groups also were critical and cited fear that they could be targeted by police. On June 21, several inhabitants of the town of Cabaret burned alive three suspected thieves. The media reported that they were following the "zero tolerance" order given by President Aristide. In reaction to domestic and international calls to clarify his remarks, on June 25, President Aristide said that he had been misinterpreted and that police and citizens should not use extrajudicial methods to judge and punish suspected criminals. Nevertheless, he repeated his call for "zero tolerance," and vigilantism continued.

On June 27, inhabitants of the village of Latiboliere, near the town of Jeremie, decapitated a suspected bandit.

On July 9, a group of persons in the northern city of Port-de-Paix caught two young men in the act of robbery. They killed the two men and put signs with the words "zero tolerance" on their bodies.

On July 11, local residents of the villages of Sarasin and Boucan Carre, near the town of Mirebalais, killed two suspected criminals and burned their bodies. The men had fled to the two villages after the beginning of the "zero tolerance" crackdown by police.

On July 18, local residents of the village of Chabanne, near the town of Petit-Goave, killed a young man called Mondesir. Mondesir had allegedly stolen \$80 (2,000 gourdes) from a fellow passenger on public transportation. After some verbal pressure by local residents, Mondesir returned the money but subsequently was killed.

Neither the police nor the judiciary investigated or arrested anyone in connection with these killings.

In late June, a coalition of national human rights organizations published a report on the June 14 massacre in the Port-au-Prince slum of Fort Mercredi. According to their investigations, residents of Fort Mercredi and the adjacent area of Grande Ravine had longstanding disputes over land. In early June, a gang residing in Grande Ravine began to threaten residents of Fort Mercredi. On June 14, the residents killed two of the gang members. In the evening, a gang led by Felix Bienaime "Don Fefe," the director of the Port-au-Prince cemetery and a reputed gang leader with FL connections, entered Fort Mercredi and began to loot, burn houses, and kill residents. The Don Fefe gang killed 13 persons. They burned some alive, decapitated others, and mutilated the bodies. They injured 19 persons and destroyed more than 135 houses. The police response was limited to collecting corpses. The following week, President Aristide invited residents of both Fort Mercredi and Grande Ravine to the National Palace. They signed a joint press statement saying their conflict was over. Neither the judiciary nor the police questioned or arrested anyone in connection with the massacre.

On September 10, a known gang leader with FL connections, Ronald "Cadavre" Camille, argued with Fritzner Beaubrun, a Lavalas sympathizer, outside the Legislative Palace. Camille shot Beaubrun and then left the scene. Beaubrun died on September 11. Although there is an outstanding warrant in the Beaubrun case, Camille has never been arrested or prosecuted for either of these murders. In 2001 alone, three arrest warrants were issued against Camille but he has never been arrested. He reportedly has been seen in public since the latest arrest warrant.

On November 2-4, violence in the Port-au-Prince slum of La Saline led to 4 deaths, 17 injuries, and the destruction of hundreds of homes. The violence was blamed on gangs led by Ronald Camille and his brother Franco Camille, also a gangster with connections to the Government. There were no investigations or arrests following the violence.

#### b. Disappearance

There were no reports of politically motivated disappearances.

In 1999 recent skeletal human remains were found at Titanyen (near Croix des Missions), an area that often served as a dumping ground for bodies of victims of political killings during the Duvalier and military eras. The HNP's forensic unit removed the remains with the assistance of foreign experts. Preliminary findings linked some of the remains with a 1999 incident in which HNP officers allegedly arrested eight teenage associates of the gang leader Hypolite Elysee, whom HNP agents killed in April 1999. Despite the efforts of their families to find them, the youths never were located. The HNP opened an investigation into the case in June 2000. The investigation remains open, but there has been no progress.

#### c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment

The 1987 Constitution prohibits the use of unnecessary force or restraint, psychological pressure, or brutality by the security forces; however, members of the security forces continue to violate these provisions. Police officers used excessive--and sometimes deadly--force in making arrests or controlling demonstrations and rarely were punished for such acts (see Section 1.a.). Eyewitnesses accused specialized CIMO police units of beating and otherwise terrorizing men, women, and children in numerous incidents, including during the National Penitentiary prison riot on November 15, and during November and December protests in the towns of Petit-Goave and Gonaïves. Torture and other forms of abuse are pervasive. Police frequently beat suspects.

Police mistreatment of suspects at the time of arrest and during detention remains common in all parts of the country. Beating with fists, sticks, and belts is the most common form of abuse. However, in previous years, international organizations have documented other forms of mistreatment, such as burning with cigarettes, choking, hooding, and "kalot marassa" (severe boxing of the ears, which can result in eardrum damage). Persons who reported such abuse often had visible injuries consistent with the alleged maltreatment. There were also isolated allegations of torture by electric shock. Mistreatment also takes the form of withholding medical treatment from injured jail inmates.

The Government's record of disciplining police officers implicated in these offenses is inconsistent. Police almost never are prosecuted for the abuse of detainees. More often the HNP simply fires officers guilty of flagrant abuses. More than 800 officers have been removed since 1996; however, many were rehired during the year. In February President Aristide appointed a new Inspector General of the HNP; however, he has no law enforcement experience. There are some HNP officers in prison for other offenses, although no exact figures were available at year's end.

On March 26, opposition members held a peaceful demonstration in Petit-Goave. After the demonstration finished, a member of the mayor's security force fired at an opposition member who was walking by the mayor's office. The gunman wounded five persons. Police arrived and exchanged fire with members of the security force. No action was taken against the gunman.

CIMO routinely was accused of using excessive force against demonstrators (see Section 2.b.).

Locally elected officials allied with the FL increasingly exercised unauthorized law enforcement functions. For example, the mayors of Hinche, Maïssade, Miragoane, and Petit Goave employ small paramilitary groups loyal only to them. These groups use a number of coercive methods, including torture, property damage, and theft, to victimize and control the population. They are usually better armed than local police. In rural areas, members and agents of CASEC's (administrative councils of communal sections) illegally assume a law enforcement role in the absence of a regular police presence. These locally elected officials often abuse citizens because of perceived disloyalty to political parties. They also use their illegal law enforcement positions to embezzle and to confiscate property.

In July 2000, Maïssade mayor Willot Joseph and Hinche mayor Joseph Dongot participated in the round-up and beating of seven local opposition members who were imprisoned in Hinche for allegedly setting houses on fire. In late March, the two mayors severely beat two local judges who were investigating the mayors' actions (see Section 1.e.). On April 30, Mayor Joseph arrested and physically abused a union member (see Section 6.a.).

Mayor Dongot also was active in the crackdown on the opposition following the events of July 28. Dongot, police, and other local officials illegally arrested seven persons and shot and killed Wilner Jean-Louis (see Section 1.a.). In December President Aristide removed Mayor Dongot from office. However, preliminary reports from the Central Plateau indicate that his replacement also may be involved in illegal activities.

In July Marino Etienne filed a criminal complaint against former general and President of the military

government from 1988-1990, Prosper Avril, who was detained on another charge (see Section 1.d.). The complaint is based on Avril's role in the 1990 "Toussaint affair," in which members of Avril's presidential guard tortured six dissidents, including Etienne and current opposition leaders Evans Paul and Serge Gilles. Avril remained in prison, despite the original and still-valid order for his release. The prosecuting judge assigned to investigate the criminal complaint has not issued any timetable for a trial.

There were reports that the police beat journalists during the year (see Section 2.a.).

FL members also attacked union members (see section 6.a.).

Prison conditions remained very poor. The Penitentiary Administration Management (DAP), with the support of the International Committee of the Red Cross (ICRC) and international donor countries, improved prison conditions somewhat during the year. However, prisoners and detainees continued to suffer from a lack of basic hygiene, poor quality health care, and in some facilities, 24-hour confinement. Since 6 judges began working on cases at the National Penitentiary during the summer (see Section 1.d.), the prison's population decreased from 2,070 to 1,899; the overall prison population decreased from 3,809 to 3,610 persons.

Overcrowding often prevents the strict separation of convicts from those in pretrial detention or violent from nonviolent prisoners. Many prisoners were held in police holding cells, particularly in the provinces. The National Penitentiary is the only prison originally constructed for use as a prison. All other prisons are former police holding cells.

International human rights observers report, and prison officials admit, that there are instances of abuse by prison personnel against prisoners; however, no statistics were available at year's end. However, prisoners rarely know their rights and they do not believe that officials will respond to complaints; therefore, they do not file official complaints.

On November 15, prisoners in the country's largest prison, the National Penitentiary in Port-au-Prince, rioted. According to onsite interviews by human rights organizations, the revolt began following the death of a prisoner, Max Ambroise. After he apparently complained of hunger, prison guards beat Ambroise to death. Members of the CIMO specialized police unit were brought in to put down the riot. Well-publicized photos showed CIMO agents standing next to rows of naked prisoners lying face down in the main courtyard. Prisoners accused CIMO agents of beating them with sticks, fists, and boots. Local human rights groups requested an independent commission to investigate the riot and CIMO behavior; at year's end, no such commission had been established.

In January the prison system began to correct previous food shortage problems, which had caused the deaths of a number of prisoners. A new Director of Purchasing was hired from the private sector. Penitentiary authorities increased internal controls such as accounting systems; instituted better control over central and outlying food stocks; improved food transportation; and doubled the pay of cooks, which decreased theft. As a result, deaths in prisons decreased from 11 in January to 3 in February. Since then, an average of 5 prisoners have died each month due to various causes, including malnutrition. An estimated 18 percent of deaths still are related to malnutrition, which may be due to the outside environment. In some provinces, more than half of incoming prisoners suffer from advanced malnutrition. Prisons continued to experience water shortages.

The ICRC manages a number of humanitarian programs to improve living conditions within the prison system. On a quarterly basis, the ICRC distributes basic hygiene supplies to the prisons. It also provides funding on an as needed basis to clear prison septic tanks and renovate bathroom facilities. The ICRC also continues to donate reading material, sewing machines, wood, and other items to help prisoners pass the time. Based on recent turmoil, the ICRC has decided to postpone plans to reduce its operations and to delay the departure of some expatriate employees.

The prison system operates at the same budget level as in 1995. Administrators have requested a tripling of its budget, but the political crisis is expected to cause a continuation of budgetary freezes. In August 129 new prison guards were hired and trained. They received training and lectures on proper care and treatment of prisoners.

Most of the prison nurses do not receive adequate training. All receive a minimal 3-month training course before beginning work; however, of the system's 60 nurses, at most 5 have completed the 3-year course of instruction necessary to obtain full certification as registered nurses. The Chief Physician resigned in June and was not replaced by year's end. Only the National Penitentiary has a nurse on duty 24 hours a day. Other common sicknesses besides malnutrition are skin problems, tuberculosis, and HIV/AIDS. Doctors are available in the capital, but they are less frequently available in the provinces. The nurses do not conduct daily checkups

on the physical condition of the prisoners. Dispensary supplies are limited. If needed medication is not available through the dispensary, family members must provide it; in cases in which there are no relatives, the ICRC provides funding for the medication on a routine basis in the capital and on a quarterly basis in the provinces.

Fort National prison in Port-au-Prince is the only prison facility expressly for women and juveniles. In other prison facilities, women are housed in cells separate from men. However, in January 2000, U.N. Special Rapporteur for Violence against Women Radhika Coomaraswamy reported, based on her 1999 visit, that most female prisoners share living quarters with male prisoners. This subjects women to violence and sexual abuse.

Due to overcrowding, juveniles often are held with adults.

The authorities freely permitted the ICRC, the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners with medical care, food, and legal aid. The Director General of the HNP cooperated with the ICRC.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, the security forces continued to use arbitrary arrest and detention. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or if a written order by a legally competent official such as a justice of the peace or magistrate has been issued. These orders cannot be executed between 6:00 p.m. and 6:00 a.m., and the authorities must bring the detainee before a judge within 48 hours of arrest. In practice, the authorities frequently ignored these provisions. There were instances of arrests by security forces and local authorities lacking the authority to do so. In particular, arrests by mayors and members of local CASEC's occurred in underpoliced rural areas (see Sections 1.c. and 6.a.). Police often carry out an arrest warrant issued by a judge with little or no evidence (see Section 1.f.). Locally elected officials and local HNP increasingly arrested spouses of suspects. Occasionally parents ask a judge to imprison a delinquent child.

Certain police jurisdictions routinely disregarded the requirement that a detainee be brought before a judge within 48 hours of his arrest. Although the 48-hour rule is violated in all parts of the country, it most often and most flagrantly is ignored in Jeremie, Cap Haitien, Petionville, and the Delmas commissariat of Port-au-Prince. Moreover, arrests sometimes are made on charges (for example, sorcery or debt) that have no basis in law. The authorities also detained some persons on unspecified charges or "pending investigation." Local human rights organizations often criticized the Government for arresting persons on charges of "plotting against the security of the state," a charge that they claim is misused for political or personal vendettas.

On July 22, plainclothes officers, subsequently identified as National Palace security police, arrested Dr. Yves Joseph Blondel Auguste, a prominent doctor and hospital director. The police took him to the Palace for questioning and then transferred him to a local detention facility. A number of national human rights organizations criticized the arrest, calling it illegal, arbitrary, and reminiscent of the actions of former dictator Jean-Claude Duvalier's secret police. In early July, Auguste had accused Health Minister Henri-Claude Voltaire of corruption. A judge released Auguste on July 26; he was never charged.

Following the July 28 attacks on facilities (see Section 1.a.), the Brigade de Recherche et d'Intervention (BRI) (Research and Intervention Brigade), a special squad of the HNP, arrested seven members of the former military throughout the Port-au-Prince area. At year's end, these detainees had not been charged with any crime, nor had they appeared before judges. In addition, on August 22, police arrested four members of the KID opposition party for allegedly carrying illegal weapons. On September 21, a judge ordered them released. Police and local elected officials illegally arrested a number of persons in the Central Plateau towns of Hinche and Belladere following the July 28 attacks (see Sections 1.a., and 1.c.). They were released at different periods during the 2 months following the attacks. Human rights organizations reported a sharp increase of arbitrary arrests among the general population after the attacks. In addition, on August 22, police arrested four members of the KID opposition party for allegedly carrying illegal weapons.

Police arrested and detained several journalists during the year (see Section 2.a.).

On May 26, the authorities arrested Prosper Avril at a book signing. The former general and President of the military government from 1988-1990 had been in self-imposed internal exile since 1995, when he was ordered arrested by then-President Rene Preval. His May 26 arrest was based on the same 1995 warrant. On June 12, a panel of judges declared that the arrest warrant was invalid and ordered him released. The Government vowed to appeal the decision before the Court of Cassation, the country's highest court, but had not done so by year's end. Instead, Avril remained in prison under new criminal charges based upon incidents of torture in

1990 (see Section 1.c). The opposition and local human rights organizations criticized Avril's continued detention.

In the past, when the authorities received Haitian citizens deported from other countries for having committed crimes, they were generally processed in 1 week and then released. Since March 2000, criminal deportees who already have served sentences outside the country are kept in "preventive detention," with no fixed timetable for their eventual release. According to police officials, the deportees are held in order to prevent an increase in insecurity and to convince them that they would not want to risk committing crime because of prison conditions. The average period of preventive detention for these persons has decreased to approximately 1 month, compared to several months in 2000.

In 1999 the international community expressed concern about the authorities' tendency to detain persons in violation of valid court orders for their release; the practice continued during the year. The joint OAS-U.N. International Civilian Mission in Haiti (MICIVIH) expressed "extreme concern" about these cases and described the authorities' actions as "completely arbitrary and illegal." Prisoners with histories of opposition to the Government or affiliation with the Duvalier or de facto regimes were affected disproportionately by this practice. By August 2000, approximately half of those prisoners identified in 1999 had been released. By year's end, prisoners still held despite valid release orders included Leoncefils Ceance, Esteve Conserve, Calero Vivas Fabien, Jean-Robert Lherisson, Rilande Louis, Leonard Lucas, Georges Metayer, Alexandre Paul, Jean-Michel Richardson, and Jean Enel Samedi.

As in previous years, the dysfunctional judicial system resulted in prolonged pretrial detentions, with an estimated 79 percent of the country's prisoners awaiting trial (see Section 1.e). The problem is most extreme in Port-au-Prince, where 89 percent of those imprisoned in the National Penitentiary are in pretrial detention. The percentage of female and minor detainees in pretrial detention decreased from 98 percent to 88 percent.

The Justice Ministry has made occasional efforts to address the problem of prolonged pretrial detention. In February President Aristide and Justice Minister Gary Lissade visited Fort National and granted clemency to 20 women. On April 24, the Prime Minister and Lissade made a well-publicized visit to the National Penitentiary. Fifty detainees were released when examination of their files showed that even if convicted, their sentences would have been less than time already served. Government officials state that this was the beginning of a renewed emphasis on decreasing the number of pretrial detainees. In May six new judicial officials began working at the National Penitentiary. Although still preliminary, there appear to have been decreases in the prison population, especially in the National Penitentiary, and decreases in the percentage of pretrial detainees system-wide (see Section 1.c.).

Bail is available; however, it is entirely at the discretion of the investigative judge (juge d'instruction). Bail hearings are not automatic. The attorney for the defendant can make an application based upon a specific need, and the judge then decides if a conditional release is warranted. This usually is done only in minor cases when there is an overwhelming humanitarian reason, such as a need for medical attention.

The Constitution prohibits the involuntary exile of citizens, and there were no reports of its use. The July 28 attacks and subsequent crackdown in the Central Plateau forced a number of former military and opposition members to flee their homes (see Section 1.a.). Some had not returned to their homes by year's end, fearing that they would be killed. In addition, several persons arrested and then released during the July 28 events are in voluntary self-exile. More than 20 journalists went into voluntary exile after receiving death threats following the December 17 attack (see Section 2.a.). Self-imposed internal exile is a common practice.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, it is not independent in practice and is subject to significant influence by the executive and legislative branches. Years of extensive corruption and governmental neglect have left the judicial system poorly organized and nearly moribund.

Judges assigned to politically sensitive cases complained about interference by the executive branch (see Section 1.a.). One judge received threats while investigating the 2000 killing of journalist Jean Dominique (see Section 1.a.).

At the lowest level of the justice system, the justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Appeals court judges hear cases referred from the first instance courts, and the Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality.



On June 6, President Aristide appointed new judges to the Court of Cassation, which had been understaffed since the court president died in September 2000.

The judicial apparatus follows a civil law system based on the Napoleonic Code; the Criminal Code dates from 1832, although it has been amended in some instances. The Constitution provides for the right to a fair public trial; however, this right was abridged widely in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate a person charged with a crime unless the suspect has legal counsel or a representative of his or her choice present or waives this right; however, this right was abridged in practice. While trials are public, most accused persons cannot afford legal counsel for interrogation or trial, and the law does not require that the Government provide legal representation. Despite the efforts of local human rights groups and the international community to provide legal aid, many interrogations occur without counsel persons. However, some defendants had access to counsel during actual trials. The Constitution provides defendants with a presumption of innocence and the rights to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf; however, in practice corrupt and uneducated judges frequently deny defendants these rights.

A shortage of adequately trained and qualified justices of the peace, judges, and prosecutors, as well as underfunding, among other systemic problems, created a huge backlog of criminal cases, with many detainees waiting months or even years in pretrial detention for a court date (see Section 1.d.). If an accused person ultimately is tried and found innocent, there is no redress for excessive time served in detention.

In some regions, there are not enough judges to hear cases, and judges lack basic resources (such as office space, legal reference texts, and supplies) to perform their duties. Professional competence sometimes is lacking as well; some judges are illiterate. While previously judges conducted most legal proceedings exclusively in French, they increasingly use Creole in judicial proceedings. However, language remains a significant barrier to full access of the judicial system (see Section 5).

The Constitution sets varying periods of tenure for judges above the level of justice of the peace. However, in practice the Ministry of Justice exercises appointment and administrative oversight over the judiciary, prosecutors, and court staff. The Ministry of Justice can remove justices of the peace and occasionally dismisses judges above this level as well. On June 11, in a first step towards public accountability of the judicial system, the Ministry of Justice opened an officer where persons could file complaints against judges.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes and divides the authority for cases among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often receive files that are empty or are missing police reports. Autopsies are conducted only rarely, and autopsy reports are even more rare. The Code provides for 2 criminal court sessions ("assizes") per year in each of the 15 first instance jurisdictions to try all major crimes requiring a jury trial; each session generally lasts for 2 weeks. During the year, the Port-au-Prince jurisdiction--by far the largest in terms of caseload--again failed to adhere to this stipulation due to difficulties in assembling juries. Criminal assizes in Port-au-Prince have met once a year since 1998, with the last meeting held in June.

In late March, Maissade mayor Willot Joseph and Hinche mayor Joseph Dongot, accompanied by members of their paramilitary groups, severely beat two local judges who had opened investigations into the actions of the mayors in the detention and beating of opposition members in July 2000 (see Section 1.c.). After the beating, the mayors closed the judicial offices in Hinche and Maissade and threatened the employees. On April 17, Justice Minister Gary Lissade ordered the mayors arrested. On April 19, the authorities arrested Dongot; however, Willot went into hiding. The Minister of Justice came under heavy pressure by the Union of Northern Mayors and by the Minister of the Interior to free Dongot, and on April 26, he was released provisionally. There was no further investigation by the Justice Ministry. In December President Aristide replaced the mayors of Hinche and Petit-Goave (see Section 1.c.).

In December 2000, 39 lawyers graduated from the Magistrate's School. In June a class of approximately 80 students began the year-long course of study. The school conducted seminars on human rights and judicial reform during the year.

There were no reports of political prisoners, although there were several political detainees (see Section 1.d.).

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits interference with privacy, family, home, or correspondence; however, police and other security force elements conducted searches without warrants. Locally elected officials and local HNP increasingly arrested spouses of suspects. Following the July 28 attacks (see Section 1.a.), police and local

officials arrested several spouses of former military and opposition leaders. In general they were released within 1 month.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, the Government's respect for the press continued to deteriorate during the year. Print and electronic media from opposite ends of the political spectrum often criticize the Government. However, there were several cases of attacks on, or threats against, journalists during the year. Most media practice self-censorship due to fear of offending sponsors or the politically influential.

There are two French-language newspapers in the country, *Le Nouvelliste* and *Le Matin*, with a combined circulation of less than 20,000 readers. Print media in Creole is limited due to regional variations and the lack of a consistent orthography; however, many newspapers include a page of news in Creole. Both daily newspapers are frequently critical of government policies.

The written press is beyond the reach of many citizens, due to language differences, illiteracy, and cost.

With a low rate of literacy (approximately 52 percent) and the relative scarcity of televisions, the most important medium is radio, especially those stations broadcasting in Creole. Two hundred fifty three private radio stations exist, including approximately 40 in the capital alone. Most stations carry a mix of music, news, and talk show programs, which many citizens regard as their only opportunity to speak out on a variety of political, social, and economic issues. Uncensored foreign satellite television is available; however, its impact is limited, as most persons cannot afford access to television. The few stations carrying news or opinion broadcasts freely express a wide range of political viewpoints.

On December 3, members of a progovernment popular organization, *Domi nan Bois*, hacked to death a Petit-Goave journalist, Brignol Lindor. Lindor's name was on a list publicly announced over the radio on November 30 by Dube Bony, deputy mayor of Petit-Goave and a member of the ruling FL party. Bony said that the six persons on the list--opposition members and journalists--should be met with "zero tolerance" (see Section 1.a.). Lindor's funeral on December 11 was attended by thousands of persons, and was followed by several days of civil unrest in Petit-Goave. Units of the special reaction force CIMO were called in. Several eyewitnesses accused CIMO of brutality in putting down the unrest. No one was arrested in connection with Lindor's murder, although it was witnessed by several residents.

On June 1, police in the town of Belle-Anse arrested Raphael Francen, a journalist with Radio Telediffusion Jacmelienne. Francen had reported that local police arrested a resident in the evening, in violation of the requirement that an arrest order cannot be executed between 6:00 p.m. and 6:00 a.m. (see Section 1.d.). The next day, police arrested Francen at midnight. The Association of Haitian Journalists called his arrest "illegal and arbitrary." He later was released.

In early August, police arrested two journalists from Radio Rotation FM in the town of Belladere, who were reported to have tapes by the perpetrators of the July 28 attacks (see Section 1.a.). The police released the journalists later the same day; however, the journalists said that police beat them. The Association of Haitian Journalists promised to investigate the charges.

Following the October 11 killings of three persons by police (see Section 1.a.), police beat a Radio Haiti Inter reporter, Jean Robert Delcine, while he was investigating the killings. Police confiscated his tape recorder and hit him with fists and batons. The police allegedly said that he deserved what he was getting because he belonged to the "Jean Dominique group." Dominique was director of radio station Radio Haiti Inter until his April 2000 murder (see Section 1.a.)

Radio stations and journalists continued to receive anonymous threats. In January the Director of Information at Caribes FM said he had received multiple anonymous threats for 3 months. He sent his family out of the country because of fears for their safety. On March 21, Signal FM reported that it had received repeated anonymous threats against its reporters and its radio programs. Most threats were made against their program "Haiti Today" and a frequent contributor, Haitian historian Michel Soukar. Unknown men asked residents to tell them where Soukar lived and to describe the car he drove. In mid-April hundreds of persons attacked the radio transmitters of Radio Vision Nouvelle and Radio Lumiere, two independent radio stations based in Port-au-Prince and killed Fritz Antoine Jean, a Radio Vision Nouvelle guard. No group claimed responsibility for the attacks. The radio station owners said that the attacks could have been politically motivated or linked to

vigilante raids on criminals based in the Bois Neuf slum (see Section 1.a.). The international organization Reporters Without Borders protested the attacks and called on the Government to provide security; at year's end, the Government had not done so.

On June 9, an unknown caller threatened Roosevelt Benjamin, director of information at Signal FM, who had just finished his weekly political talk show. On June 10 and 11, Benjamin received similar death threats from the same and other anonymous callers. Benjamin had discussed a new political organization, the Majority Civil Society Movement, and said that the organization was dominated by the relatives of ruling party senators. On June 13, the Committee to Protect Journalists wrote a letter to President Aristide, and expressed "profound concern" over the threats to Benjamin.

On June 21, unknown gunmen threatened the journalist Fritson Oreus. Oreus was accosted while driving down the main Port-au-Prince road of Delmas. The attackers forced him to pull over in a nearby gas station, where they kept him at gunpoint and wrote down his identification and press badge numbers. They said the car he was driving was the same as that of murdered journalist Jean Dominique (see Section 1.a.). Oreus is the host of an evening news program at the Radio Haiti-Inter station, of which Jean Dominique was director. The gunmen, who claimed to be police officers, left after 15 minutes. Reporters Without Borders wrote a letter to the Ministry of Justice to express its concern. The organization's Secretary-General, Robert Menard, speculated that the assault on Oreus was meant as a warning to Radio Haiti-Inter, which has continued to investigate the killing of its director.

On August 27, journalists in the southeastern town of Thiotte said that they had received multiple threats from local authorities and popular organizations close to the Government. Among others, Edner Confidence of Radio Sacre-Coeur said that he had received death threats because he reported on irregularities and corruption in the public administration of the commune of Thiotte.

Journalists reported receiving death threats following the December 17 attacks (see Section 1.a.). More than 20 went into exile. Several radio stations closed down during the day because of intimidation and threats.

A number of journalists reported that they continued to receive threats because of their use of the term "May 21 Senators" and "contested Senators." Many journalists use these terms to describe Senators elected in the controversial May 2000 and November 2000 elections (see Section 3).

The Government's inability and unwillingness to provide adequate security to media outlets and journalists has contributed to an increased sense of vulnerability among those members of the media who criticize the Government or FL.

Although most radio stations and other forms of telecommunications are nominally independent, they are subject to a 1997 law that names the State as the sole owner and proprietor of the airwaves. Members of the media believe that the Government refuses to sign the Chapultepec Convention (on freedom of expression) because the Convention prohibits government monopolies of the media, which would be in direct violation of the 1977 law. The State leases the right to broadcast to private enterprises but maintains the right to repossess the airwaves in the event of national emergencies, including natural disasters. The Government has not exercised this right in practice.

The financial and other means at the Government's disposal provide it with the means to hire experienced staff from competing media. In February and March, key personnel from a private television station moved to the government-owned National Television of Haiti because of offers of higher salaries.

There was no information available on any investigation into the December 2000 killing of sports broadcaster Geral Denoze.

The investigation into the April 2000 killing of prominent radio commentator and journalist Jean Dominique and a security guard continued during the year (see Section 1.a.). Local and international human rights groups frequently criticized the slow pace of the investigation.

Foreign journalists generally traveled without hindrance from the authorities.

The Government does not censor books or films, nor does it limit access to the Internet.

The Government does not restrict academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly. Although a variety of organizations were able to exercise this right without hindrance throughout the year, numerous violations of the freedom of assembly occurred in the provinces. CIMO routinely was accused of using excessive force against demonstrators (see Section 1.c.). Especially in the Central Plateau, NGO's are refused permits to assemble. Authorities frequently failed to provide security for opposition parties conducting peaceful demonstrations.

On June 20, members of the Solidarity Committee for Dany Toussaint gathered in the public square of Grand-Goave to demonstrate their support for Senator Toussaint, who is a suspect in the killing of journalist Jean Dominique (see Section 1.a.). Police from the Grand-Goave police station beat the demonstrators with clubs and forced them to disperse.

In several cases, police inaction allowed organized political militants to violate the right of freedom of assembly in practice, and there were numerous violent political demonstrations (see Section 1.a.).

On May 21, government supporters clashed with opposition members in Les Cayes. The progovernment group surrounded a house where the opposition Democratic Convergence was holding a meeting. They began to throw stones and fire weapons. Two government supporters and one bystander were injured. The police, who were approximately 200 yards away at the police station, took more than 1 hour to respond. When they did arrive, they arrested Convergence leader Gabriel Fortune. Police said they detained Fortune to protect him, but later said that someone had filed a complaint against him. Fortune was released on June 4.

On August 29, progovernment militants broke up a demonstration in the Port-au-Prince suburb of Petionville. The demonstration was organized by the Democratic Party of Haiti, an opposition political party. During the demonstration, the militants arrived and began throwing stones at the demonstrators. One opposition member was hit in the head by stones. According to several eyewitnesses, the counter-demonstrators fired weapons in the air. Police were present but did not prevent the counter-demonstrators from breaking up the opposition demonstration.

In November strikes by the Convergence sparked a crackdown by the Government. Police in Jacmel and Gonaives barred demonstrations by persons opposed to the Government. Although they said the reason was an inability to provide proper security, police only forbade opposition marches while allowing progovernment marches to take place with adequate security.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. The Penal Code requires the Government to give prior approval before an association of more than 20 persons can be formed, if the association wants tax benefits and official recognition from the Government.

#### c. Freedom of Religion

The Constitution provides for the right to practice all religions and faiths, provided that practice does not disturb law and order, and the Government generally respects this right in practice.

In many respects, Roman Catholicism retains its traditional primacy among the country's religions, although Protestant denominations (primarily Methodist and Baptist) have overtaken the Catholic Church in numbers of active members. Voodoo, a traditional religion derived in part from West African beliefs, is practiced alongside Christianity by a large segment of the population. Official recognition by the Ministry of Religious Affairs gives religious organizations legal standing, tax exempt status, and extends civil recognition to church documents. While there are associations of voodoo practitioners and priests, there is no organized hierarchy. On April 30, the Ministry of Religion officially recognized the first voodoo church, the Eglise Vodou d'Ayiti. Accusations of sorcery, particularly in rural areas, have resulted in mob violence and killings. Given the prevalence of voodoo in these areas, it appears likely that voodoo practitioners are targeted in some cases. On May 21, several residents of the village of Chenet killed a houngan (male voodoo priest) by stoning and with machete blows. They accused the houngan of poisoning two brothers, Jackson and Gilmeus Similien. There was no investigation.

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respects them in practice.

An unknown number of undocumented migrants put to sea during the year seeking better economic

opportunities in other countries. The Government's National Migration Office (ONM) is responsible for assisting citizens repatriated from other countries, including the Dominican Republic, the Bahamas, Cuba, and the United States. In 2000 the ONM stopped meeting, processing, and providing humanitarian services to involuntarily repatriated migrants. However, in June ONM again began to meet and process repatriated citizens. It infrequently gives small sums of money to the repatriated migrants to fund their transportation home. According to the International Organization for Migration, the Dominican Republic reports approximately 500 Haitians each month across the border. In December the Dominican Republic's Directorate of Migration reported that 9,047 Haitians were repatriated during the year; however, the armed forces of the Dominican Republic carried out massive repatriations at the beginning of the year and claimed to have repatriated approximately 12,000 Haitians per month in the first 3 months of the year. These figures of claimed repatriations were significantly lower than similar claims made in 2000. There continued to be reliable reports of separation of families and maltreatment of Haitians by Dominican soldiers during the year. There were no credible reports of mistreatment of migrants repatriated to Haiti from other countries, including the U.S.

The law provides for the granting of asylum and/or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. On May 31, 12 Cuban refugees arrived at the northern city of Cap-Haitien. They were escorted to the local fire station and were aided by government authorities. Although they verbally claimed asylum, they left for the Dominican Republic on June 11. The question of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully. In practice the political system remains in transition from a dictatorial system to a more open and competitive one. The dominant FL political party manipulated legislative and exaggerated electoral participation in the presidential elections of 2000. The FL controls all government power, including the presidential, legislative, and judicial branches. Most local and regional elected leaders are members of the FL.

In May 2000, a first round of long overdue senatorial, legislative, and municipal elections to fill vacant posts took place after repeated postponements. There were scattered acts of violence in the months leading up to the election.

Under the Constitution and electoral law, a candidate for the Senate or Chamber of Deputies must receive an absolute majority of votes cast in order to be elected in the first round of voting. If no candidate receives a majority, a second round runoff is required. The Senate results published by the CEP announced that the ruling FL party won 16 of the 17 Senate seats in the first round. These results were based on what opposition parties and independent observers termed a flawed interpretation of both the Constitution and the electoral law.

Observers described these elections as generally free and fair despite some scattered irregularities. However, the CEP manipulated the results by its choice of a methodology in calculating the percentages for the determination of Senate seats, the faulty transmission of results, and the arbitrary treatment of challenges that affected the results of several races. A December 2000 OAS report also described significant candidate intimidation and theft of ballots. Because the Government refused to correct these manipulations, a political standoff between the FL and the opposition ensued. Opposition parties boycotted a second round of legislative elections in July 2000 (which included no senatorial seats) and the second round November 2000 presidential elections. Despite local and international calls not to seat the Parliament before resolution of the election controversy, in August 2000, Parliament was sworn in formally.

Violence again escalated prior to the November 2000 presidential elections, which took place amidst heavy police security and were characterized by low turnout--credible accounts varied from 5 percent to 20 percent. With the opposition boycott, former President Aristide faced only token opposition and was elected to a 5-year term with a reported 91.5 percent of the votes cast.

The political stalemate over the legislative elections continued throughout the year. A number of the largest opposition parties, including the Espace de Concertation, OPL, and MOCHRENA, formed an umbrella group following the 2000 legislative elections--the Democratic Convergence. The Convergence has attempted to present a unified opposition front in response to the controversial legislative and presidential elections of 2000. The Government and the Democratic Convergence have conducted intermittent negotiations under the aegis of the OAS, the Caribbean Community (CARICOM), and local civil society groups.

On February 6, the Convergence named respected lawyer Gerard Gourgue as provisional president of their "alternative government." Gourgue called the act "symbolic," designed to protest the Government's refusal to

amend the results of the May and November 2000 elections. Convergence supporters demonstrated in Petit-Goave and Gonaive. Despite high tensions and scattered violence, police successfully patrolled the streets.

On February 7, Jean-Bertrand Aristide was inaugurated as President. Notwithstanding the previous year's electoral controversy, the inauguration marked the first time in the country's history that a full-term president peacefully transferred power to an incoming president.

From March 17-21, pro-FL members demonstrated in the streets of Port-au-Prince, demanding that the Government arrest Gerard Gourgue. The bulk of their anger was directed at the opposition's headquarters in Port-au-Prince. The militants burned tires, threw rocks at the opposition headquarters, and closed streets to protest the Convergence's perceived intransigence and their proclamation of an "alternative government." On March 19, the opposition and the demonstrators exchanged gunfire in front of the headquarters. In the ensuing melee, a pro-FL demonstrator was killed and several opposition members were beaten severely. Demonstrators destroyed property and threatened several opposition leaders. During the 5 days of riots, the police were largely absent. Pro-FL militants arrived in government-owned vehicles and appeared well-organized, giving rise to the general perception that the Government organized the riots.

On March 26, five opposition supporters were shot and wounded following a peaceful Convergence demonstration in the town of Petit-Goave. Local journalists said the FL Petit-Goave mayor and his security force were responsible for the wounding of the five opposition members. There was no investigation nor were there any arrests in the case.

A period of frequent negotiations, mediated by the OAS, CARICOM, and local civil society groups, occurred between April and July. Fanmi Lavalas and the Convergence discussed the possible makeup of a new CEP, a timetable for new elections, security for political parties, and other confidence-building measures. Although much progress was made, including substantial concessions from both sides, the negotiations were suspended in mid-July without a final agreement.

On July 28, unknown gunmen attacked police stations in Port-au-Prince and the provinces. A subsequent crackdown by the authorities further increased tensions between Lavalas and Convergence (see Section 1.a.).

In November police in Jacmel and Gonaives barred demonstrations by the Democratic Convergence; pro-Government marches were allowed (see Section 2.b.).

On November 15, schools and businesses in Cap-Haitien were closed after 1 night of rioting. Opposition and government popular organizations clashed over plans by the opposition to hold a 2-day strike. There were no reports of injuries.

Increasingly, affiliation with the FL is considered necessary for employment by the Government, and political patronage is widespread. Pro-FL popular organizations throughout the country occasionally have criticized the Government for not giving them more jobs. It is common for political appointees to use their positions for personal enrichment.

There are no legal impediments to women's participation in politics or government; however, the percentage of women in government and politics does not correspond to their percentage in the population. The Election Law provides that the monetary deposit required of female candidates for political office is one-half that required of male candidates if a recognized party sponsors them. Three of the 82 deputies are women, and there are 6 women among the 27 senators. Three of the 16 ministers in the Government are women.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operate without government restrictions; however, threats and intimidation from unknown sources continued to increase during the year. The number of groups that monitor human rights has grown, as has the scope of those groups; however, most monitoring groups are hampered by a lack of resources. Human rights organizations increasingly turn to issues that they have not addressed before, including prison conditions, the widespread lack of health facilities, and impunity for criminals. Local officials often attempt to control domestic human rights groups, as well as other local NGO's. Especially in the Les Cayes region and in the Central Plateau, NGO's often are harassed, refused permits to assemble, and threatened by local officials and their supporters (see Sections 1.a., 2.b., and 3).

At the national level, human rights organizations have been active and effective in monitoring alleged violations. Subsequent to a number of arrests and detentions following the July 28 attacks, human rights

organizations, including the Platform of Haitian Human Rights Organizations, the NCHR, the Lawyers' Committee for the Respect of Individual Rights (CARLI), and the National Episcopal Commission on Justice and Peace, made frequent media appearances and published the first objective report on the attacks (see Sections 1.a. and 1.d.). They were instrumental in the subsequent release of all those detained after the attacks.

The NCHR, CARLI, and the Platform of Haitian Human Rights Organizations met with the Justice Minister several times to discuss ongoing human rights problems, including the Jean Dominique murder investigation (see Section 1.a.).

There were no arrests or progress made in the September 2000 torture and killing of Amos Jeannot, an employee of the local NGO Fonkoze. There were no arrests or progress made in the investigation of the 1999 attempted killing of human rights activist Pierre Esperance, NCHR country director. In both cases, the HNP's investigations remain open but by all accounts are inactive.

Organizations such as the NCHR, the Platform of Haitian Human Rights Organizations, the Human Rights Fund, and the Ecumenical Center for Human Rights reported receiving repeated threats, most of them anonymous.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the Constitution, reported receiving an increase in complaints of abuse at all levels of the Government. The OPC is tasked with investigating and reporting on the complaints on the relevant government agencies or ministries; however, the Government generally does not respond. Local human rights organizations report that the OPC does not play an active role in following up on human rights complaints, and they do not view the office as an advocate or an interlocutor with the Government. The OPC conducted a number of training seminars throughout the year, including seminars in schools and at the local and county levels of government. In June Dr. Louis Roy, the Director of the OPC, resigned, and the Deputy Director, Florence Elie, became the acting director. The OPC still has budgetary problems.

The Parliament's Justice and Human Rights Committee, created in 2000, did not have a high profile and focused largely on judicial issues during the year.

A U.N. mission, the International Civilian Mission for Support in Haiti (MICAH), ended its mandate on February 6. MICAH's mandate under the human rights pillar was limited to training in human rights and to strengthening the institutional capacity of the OPC. It did not conduct human rights monitoring.

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution does not specifically prohibit discrimination on the grounds of race, sex, religion, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there is no effective governmental mechanism to administer or enforce these provisions.

#### Women

The law provides penalties for rape and domestic violence; however, the Government does not enforce these provisions adequately. According to women's rights groups, rape and other abuse of women is common, both within and outside marriage. A 1998 study by the Haitian Center for Research and Action for the Promotion of Women documented widespread rape and violence against women. The report also found that many women do not report these forms of abuse due to fear, shame, or lack of confidence in judicial remedies. A 1999 survey by UNICEF of violence against women found that 37 percent of women reported they were victims of sexual violence or reported knowing a woman who had been; another 33 percent reported being victims of other types of physical abuse. The law excuses a husband if he murders his wife or her partner upon catching them in the act of adultery in his home. A wife who kills her husband under similar circumstances is not excused. The Criminal Code dates back to 1832 and many parts of it have not been updated. There are no government-sponsored programs for victims of violence.

The law does not prohibit specifically sexual harassment, although the Labor Code simply states that men and women have the same rights and obligations. Sexual harassment of female workers is a problem, especially in the assembly sector (see Section 6.b.).

The Constitution states that all citizens are equal before the law; however, women do not enjoy the same social and economic status as men. In some social strata, tradition limits women's roles. Peasant women, often the breadwinners for their families, remain largely in the traditional occupations of farming, marketing,

and domestic labor. Very poor urban women, who head their families and serve as their economic support, also often find their employment opportunities limited to traditional roles in domestic labor and sales. Laws governing child support recognize the widespread practice of multiple-father families but rarely are enforced. Female employees in private industry or service jobs, including government jobs, seldom are promoted to supervisory positions. However, well-educated women have occupied prominent positions in both the private and public sector in the past several years.

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but it has few resources at its disposal and was able to accomplish little in this regard.

Women's rights groups are small, localized, and receive little publicity.

#### Children

Government health care and education programs for children are inadequate. Malnutrition is a problem. Approximately 22 percent of children under 5 years old are chronically malnourished. The Government has a school nutrition program administered through the Office of National Development, with food provided by foreign donors; health clinics and dispensaries have begun to distribute donated food to children.

The Constitution and the law provide for free and compulsory primary education; however, in practice access to public schools is the primary obstacle to most rural families. Even in public schools there are nominal mandatory fees associated with sending a child to school (uniform, books, etc.), and these costs are beyond the means of many rural families. Schools are dilapidated and understaffed. An estimated 90 percent of schools are private, and the costs of school fees, books, materials, and uniforms are prohibitive for most families. According to the Government, 40 percent of children never attend school, and less than 15 percent of those who do graduate from secondary school. The Ministry of Education estimated primary school enrollment at 65 percent. Poorer families sometimes ration education money to pay school fees only for male children.

In early September, President Aristide launched "Project Alpha," a nationwide campaign to increase the level of literacy.

Child abuse is a problem. Radio commercials urge parents not to abuse their children physically or mentally. In early September, Parliament passed a law banning corporal punishment against children. The law ordered all schools to post clearly their policies on disciplinary measures. It also called for the establishment of a commission to determine what disciplinary measures would be appropriate for schools to take.

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called "restavek" (which means "lives with" in Creole); families of these children frequently received financial compensation (see Sections 6.d. and 6.f.). Most local human rights groups do not report on the plight of restavek children as an abuse nor seek to improve their situation. The Ministry of Social Affairs believes that it can do little to stop this practice, regarding it as economically motivated; the Ministry assigned five monitors to oversee the welfare of restavek children. Society holds such children in little regard, and the poor state of the economy worsened their situation.

Port-au-Prince's large population of street children includes many restaveks who have been sent out of employers' homes or who are runaways. There is some anecdotal information indicating that children are involved in prostitution or being trafficked (see Section 6.f.). The Ministry of Social Affairs provides some assistance to street children. In 1998-1999 (last available data), they assisted 887 children. The Haitian Coalition for the Defense of the Rights of the Child (COHADDE) promotes children's rights by conducting awareness raising activities.

Several international and local NGO's work on children's issues.

#### Persons with Disabilities

The Constitution provides that persons with disabilities shall have the means to ensure their autonomy, education, and independence. However, there is no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities. Although they do not face overt mistreatment, given the severe poverty in which most citizens live, those with disabilities face a particularly harsh existence. Disabled beggars are common on the streets of Port-au-Prince and other towns.



## National/Racial/Ethnic Minorities

Approximately 99 percent of Haitians are descendants, in whole or in part, of African slaves who won a war of independence from France in 1804. The remaining population is of European, Middle Eastern, North American, or Latin American origin. The law makes no distinction based on race. Longstanding social and political animosities often are tied to cultural identification, skin color, and overlapping issues of class in this starkly inegalitarian society. Some of these animosities date back to before the country's revolutionary period.

Racial distinctions tend to parallel social and economic strata. Mulattos generally belong to the wealthiest classes of society. Mulattos historically have been targets of sporadic attack in many cases because they are perceived to be wealthy.

The Government recognizes two official languages: Creole, which is spoken by virtually all Haitians; and French, which is spoken by approximately 20 percent of the population, including the economic elite. The inability to communicate in French long has limited the political and economic opportunities available to the majority of the population. The Government prepares most documents only in French. Creole is used in parliamentary debate in the Lower House of Parliament. However, language remains a significant barrier to full access to the judicial system (see Section 1.e.).

## Section 6 Worker Rights

### a. The Right of Association

The 1987 Constitution and the Labor Code provide for the right of association. Public sector workers are organized pursuant to Article 31 of the 1987 Constitution.

The law protects union activities and prohibits a closed shop. The law also requires a union, which must have a minimum of 10 members, to register with the Ministry of Labor and Social Affairs within 60 days of its formation in order to obtain legal recognition. The Labor Code does not require prior approval before any association is established. Unions are subject to the same registration requirements as other associations (see Section 2.b.).

The law prohibits employers, management, and anyone who represents the interests of employers in enterprises from joining a union.

Unions are independent of the Government and political parties. Nine principal labor federations represent approximately 5 percent of the total labor force of approximately 2,800,000 persons, including approximately 2 to 3 percent of labor in the industrial sector.

Several unions have pending grievances over worker rights violations against the Government before the International Labor Organization (ILO) and the International Confederation of Free Trade Unions (ICFTU). These include the National Confederation of Haitian Teachers (CNEH), the Autonomous Central of Haitian Workers (CATH), and the General Independent Organization of Haitian Workers (OGITH). Three major teachers' unions--the CNEH, the National Union of Trained Teachers (UNNOH), and the High School Teacher's Union (GIEL)--continue to accuse the Ministry of National Education (MENJS) of unfair labor practices. They accuse the MENJS of implementing changes in the labor contract without advance notification or opportunity to bargain changes prior to implementation.

There was no information on any investigation into the September 2000 killing of CATH member Elison Merzilus.

Labor unions reported several cases of threats and arrests during the year. The CATH stated that on April 9, a group of men allied with the FL surrounded CATH members who were meeting to discuss regional issues in the Gros Morne commune. Armed with machetes, pistols, and batons, the group of men attacked the unionists and violently dispersed the meeting. Ten members of the Federation of Agricultural Workers of Gros Morne and the Democratic Association of Haitian Women Workers, 8 of whom are women, have been in hiding since the incident. There was no investigation.

The CATH also reported that on April 24, FL members attacked members of its affiliate union, Organization for the Development of Bois Neuf in Cite Soleil. Five members went into hiding.

On April 30, in the Central Plateau, FL mayor of Maissade Willot Joseph arrested and physically abused

Santilus Odvy, a CATH member who went to the area to conduct a seminar for the union. Odvy remained in prison for 5 days. In August Amanus Maillet, a Lavalas CASEC member in the Saint Marc commune in Artibonite, shut down the port demanding that FL militants replace all workers. Workers were idled while the port remained closed for approximately 1 month.

Unknown persons telephoned threats to several leaders of major labor confederations during the year. They were given ultimatums to rally behind the FL. Jacques Pierre, Secretary General of the Confederation of Haitian Workers (KOTA), and his family abandoned their home and spent much of the year avoiding FL militants.

Workers have access to labor courts (Tribunaux de Travail) set up to resolve common labor-management disputes. The courts function under the supervision of the Ministry of Labor and Social Affairs. These courts adjudicate and settle minor conflicts, but unions state that the process is inefficient.

The Labor Code provides for the right to strike, except for managers, administrators, and other heads of establishments, and public utility service workers. The Labor Code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security."

There were several strikes during the year, but participation was very low.

Government employees, including police and judicial employees, often are paid late. Pay periods sometimes are missed, and the employees have difficulty recouping missed wages.

Unions may freely form or join federations or confederations and affiliate with international bodies. Each of the principal labor federations maintained some fraternal relations with various international labor organizations.

#### b. The Right to Organize and Bargain Collectively

The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right. No fines were issued during the year. Unions generally were free to pursue their goals, although the Government made little effort to enforce the law. Union leaders assert that some employers in the private industrial sector dismiss individuals who participate in union organizing activities. In 2000 the ILO criticized the law for its failure to include a specific provision providing protection against antiunion discrimination at the time of hiring. The Labor Code does not provide for reinstatement of workers fired for trade union activities.

Organized labor activity was concentrated in the Port-au-Prince area, in state enterprises, the civil service, and the assembly (maquiladora) sector. The high unemployment rate and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining continued to be nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better-than-average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers is a problem in the assembly (maquiladora) sector. Female workers in the assembly sector report that some employers sexually harass female workers with impunity. Women also report that while the vast majority of assembly sector workers are women, virtually all the supervisors are men.

The Federation of Electric Company Workers (FESTREDH) and ICFTU brought a complaint against the government-owned enterprise to the ILO in 1999; the case remained pending at year's end. In 1996 FESTREDH leaders and active members were dismissed permanently. The Government orchestrated a reorganization of the union and allowed it to function under new leadership.

There are no export processing zones. However, the Government's 5-year economic program calls for the creation of two export processing zones, one in Cabaret and another in Cap Haitien.

#### c. Prohibition of Forced or Compulsory Labor

The Labor Code prohibits forced or compulsory labor for adults and minors; however, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as restaveks in urban households under conditions that amount to slavery (see Sections 5 and 6.d.).

Trafficking in men, women, and children exists; most adult victims are trafficked to the Dominican Republic as manual laborers. Most Haitians freely work in the Dominican Republic. However, there are cases of Dominican-Haitian trafficking rings coercing Haitian workers to work in Dominican sugar cane fields. Internal trafficking in children as *restaveks* is the most serious problem (see Sections 6.d. and 6.f.).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years of age. The Labor Code prohibits minors from working under dangerous conditions, and it prohibits minors under the age of 18 from working at night in industrial enterprises. There is also a legal provision for employment of children between the ages of 12 and 16 as "apprentices." Fierce adult competition for jobs ensures that child labor is not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked on small family farms alongside their parents, although the high unemployment rate among adults kept children from being employed on commercial farms in significant numbers. Government agencies lack the resources to enforce the relevant laws and regulations effectively. According to COHADDE, children work primarily in domesticity as *restaveks*, but some are found working on the street, and some are involved in prostitution (see Section 5).

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor (*restavek*); families of these children frequently received financial compensation (see Sections 5 and 6.d.). In a 1998 study, UNICEF estimated that 250,000 to 300,000 children may be victims of this form of servitude. UNICEF reported the average *restavek* was between 11 and 14 years of age; however, more than 20 percent were between the ages 4 and 10, and 85 percent are girls.

Host family members rape about 23 percent of these girls, 15 percent of whom become pregnant. Nearly 77 percent of *restaveks* have never been to school. Among those who have, only 2 percent reach secondary school. The Ministry of Social Affairs believes that many employers compel the children to work long hours, provide them little nourishment, and frequently beat and abuse them. The law requires that *restaveks* 15 years of age and older be paid not less than one half the amount paid to a servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers send many if not most *restaveks* away from the home before the children reach the age of 15.

The Government designated the Ministry of Labor and Social Affairs' Social Welfare and Research Institute (IBESR) to implement and enforce child labor laws and regulations. The Government does not devote adequate resources and oversight to child labor policies. The budget for the entire Ministry is far below what is needed to fund adequately programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinates efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies to formulate and enforce child labor policies. The Government requested ILO/IPEC assistance to combat child domestic work, a significant step towards addressing the existing gap between practice, national legislation, and international standards. The Government signed a Memorandum of Understanding with ILO/IPEC in 1999, incorporating the country into IPEC membership. IPEC began a Child Labor Project in January 2000, and has developed a framework of action focusing on institutional capacity building, prevention through awareness-raising, and direct assistance to victims of child labor.

The Labor Code prohibits forced and bonded child labor, however, forced child labor is a problem (see Section 6.c.). The country is also a source for trafficked children (see Section 6.f.).

#### e. Acceptable Conditions of Work

The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members are appointed by the President of the Republic, (two representatives each of labor, employers, and Government), is approximately \$1.52 (36 gourdes). Annually, a minimum wage worker would earn approximately \$473 (11,000 gourdes), an income above the national average but not sufficient to provide a decent standard of living for a worker and family. The real value of the gourde has declined, contributing to the insufficiency of the minimum wage. Some workers are paid on a piece-rate basis, and may earn more than the minimum wage. The majority of citizens work in the informal sector and subsistence agriculture, where minimum wage legislation does not apply. Many women work as domestic employees, where minimum wage legislation also does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. However, the officers of the HNP work 12-hour shifts 6

days per week, in apparent violation of the Labor Code. The code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. However, the Ministry of Social Affairs does not enforce work hours or health and safety regulations.

The assembly sector published a voluntary code of conduct in 1999, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. Employers in the assembly sector generally pay the minimum wage or higher amount. Working conditions are also generally better in this sector. There are no reports of child labor in this sector.

There is no formal data, but unions allege that job-related injuries are prevalent in the construction industry and public works sectors. With more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

#### f. Trafficking in Persons

The law does not prohibit trafficking in persons, and internal trafficking of children is a problem. Haiti also is country of origin for trafficked men, women, and children. Haitians trafficked overseas are sent largely to the Dominican Republic, the U.S., Europe (mainly France), and Canada. However, most trafficking occurs within the country's borders and involves restavek children (see Sections 5 and 6.d.). Most children are primarily trafficked for labor, but some are trafficked for purposes of prostitution. The practice of parents sending their children, mainly girls, to work as domestic servants in exchange for that child's room and board has existed in the country for centuries. While many restaveks are well taken care of and receive adequate care including an education, a significant number are subjected to violence, threats, and other forms of physical and mental abuse.

The Government has acknowledged the internal trafficking problem and has taken steps to address it despite severe resource constraints. There is no evidence that the authorities are complicit in trafficking. There is no law specifically prohibiting trafficking in persons, and the Government does not adequately enforce existing labor laws regarding child labor. The Government devotes the bulk of its entire social welfare budget to combating the trafficking of children. For example, the Government ran a media campaign to prevent the mistreatment of children and maintained a hotline for victims. These efforts resulted in the removal of 760 children from abusive households. Government officials then placed rescued victims in shelters and in the care of local NGO's. The ILO, at the Government's request, is developing a framework to address the gap between practice, national legislation, and international standards with regard to combating trafficking in children.